

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	§	CHAPTER 7
	§	
JAMES VINCENT SULLIVAN,	§	CASE NO. 04-76174-PWB
	§	
Debtor	§	JUDGE PAUL W. BONAPHEL

**APPLICATION AUTHORIZING THE EMPLOYMENT AND APPOINTMENT OF  
BOONE & STONE  
AS SPECIAL COUNSEL FOR THE CHAPTER 7 TRUSTEE**

Harry W. Pettigrew, the Chapter 7 Trustee ("Trustee") in the above-captioned case, in which James Vincent Sullivan is the debtor ("Debtor"), files this Application Authorizing the Employment and Appointment of Boone & Stone as Special Counsel for the Chapter 7 Trustee, to represent the Trustee in matters which relate to identifying and recovering assets for the benefit of the Bankruptcy Estate, including conducting examinations and productions (including under the full scope of Bankruptcy Rule 2004) and litigation, and respectfully represents:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§157 and 1334 and the Standing Order of Reference of the United States Bankruptcy Court for the Northern District of Georgia. This is a core proceeding under 28 U.S.C. §157(b). Venue is proper in this Court under 28 U.S.C. § 1408 and 1409.

**II. BACKGROUND**

**A. The Murder of Lita Sullivan**

2. James Vincent Sullivan, the Debtor, and Lita McClinton Sullivan ("Lita Sullivan") were husband and wife.

3. In 1987, Lita McClinton Sullivan was murdered in Atlanta, Fulton County, Georgia.

**B. The Civil Judgment Against the Debtor**

4. The Fulton County, Georgia Probate Court appointed Ann J. Herrera as the Administrator for the Estate of Lita Sullivan ("Lita Sullivan Estate Administrator").

5. John B. Moores, Esq. of West Palm Beach, Florida and David Wm. Boone, Esq. of Atlanta, Georgia represented the Lita Sullivan Estate Administrator in a wrongful death civil

lawsuit against the Debtor in Florida ("Wrongful Death Lawsuit") pursuant to a Florida contingent fee agreement approved by a Florida court ("Florida Contingent Fee Agreement").

6. The Wrongful Death Lawsuit resulted in a judgment against the Debtor ("Judgment") in the principal amount of \$4,000,000.00. With statutory interest the Judgment is now in excess of \$8,000,000.00.

7. The Lita Sullivan Estate Administrator through the above attorneys has engaged in extensive efforts to recover against the Debtor on the Judgment, including other litigation. To date, there has been no recovery.

C. The Extradition of Debtor

8. The Debtor was extradited from Thailand and is currently incarcerated in the Fulton County, Georgia jail, charged with the murder of Lita Sullivan.

D. The Bankruptcy Case

9. On October 1, 2004 ("Petition Date"), an involuntary petition for relief under Chapter 7 of Title 11 of the United States Code, U.S.C. §§ 101 et.seq., as amended ("Bankruptcy Code") ("Petition") was filed by the Lita Sullivan Estate Administrator, as the petitioning creditor ("Petitioning Creditor"), by and through Herbert C. Broadfoot, II, of Ragsdale, Beals, Hooper & Seigler, LLP, as counsel for the Petitioning Creditor.

10. The Petition commenced the bankruptcy case styled In re James Vincent Sullivan, Case No. 04-76174 ("Bankruptcy Case") in the Northern District of Georgia, Atlanta Division ("Bankruptcy Court"), assigned to the Honorable Paul W. Bonaphel ("Bankruptcy Judge").

11. On November 3, 2004 ("Order for Relief Date"), the Bankruptcy Court entered an order for relief under Chapter 7 of the Bankruptcy Code.

12. On November 15, 2004, Harry W. Pettigrew was appointed Chapter 7 trustee in the Bankruptcy Case, and continues as such ("Trustee").

13. The Trustee is the sole representative of the bankruptcy estate ("Bankruptcy Estate").

14. The Trustee seeks to recover assets for the benefit of the Bankruptcy Estate, and to employ professionals to assist the Trustee in that effort.

E. Employment of Pettigrew & Associates, P.C.

15. On November 15, 2004, the Trustee applied to employ Pettigrew & Associates,

P.C. as counsel for the Trustee.

16. On November 17, 2004, the Bankruptcy Court entered an order authorizing the Trustee to employ Pettigrew & Associates, P.C. as counsel for the Trustee.

### **III. EMPLOYMENT OF BOONE & STONE AS SPECIAL COUNSEL**

17. David Wm. Boone has formed the law firm of Boone & Stone. David Wm. Boone is located in Atlanta, Georgia . John B. Moores is associated with the law firm of Boone & Stone and is located in West Palm Beach, Florida.

18. In this application, the Trustee seeks to employ Boone & Stone as special counsel for the Trustee to represent the Trustee in matters which relate to identifying and recovering assets for the benefit of the Bankruptcy Estate, including conducting examinations and productions (including under the full scope of Bankruptcy Rule 2004) and litigation.

19. The lawyers with Boone & Stone have extensive knowledge and experience in analyzing and tracking assets which may be property of the Bankruptcy Estate.

20. The lawyers with Boone & Stone have extensive knowledge and experience in seeking the recovery of assets.

21. Under §327(c) of the Bankruptcy Code, Boone & Stone is not disqualified from representing the Trustee solely because Boone & Stone represents a creditor so long as there is no actual conflict of interest.

22. Under §327(e) of the Bankruptcy Code, Boone & Stone need not be disinterested to be employed by the Trustee as special counsel, so long as it is in the best interest of the estate and there is no actual conflict.

23. The interests of the Lita Sullivan Estate Administrator and the Bankruptcy Estate are not adverse to each other.

24. To the extent that there may be creditors of the Bankruptcy Estate in addition to the Lita Sullivan Estate Administrator, the independence and experience of the Trustee and Pettigrew & Associates, P.C. and the fee arrangement set forth below will avoid a conflict.

25. The Florida Contingent Fee Agreement between the Lita Sullivan Estate Administrator and John B. Moores and David Wm. Boone provides for compensation of 40% of any recovery plus the reimbursement of actual reasonable and necessary out-of-pocket expenses to John B. Moores and David Wm. Boone. John B. Moores and David Wm. Boone have a

sharing agreement between themselves.

26. The Trustee seeks to employ Boone & Stone as special counsel to represent the Bankruptcy Estate, with compensation and reimbursement therefore to be to John B. Moores and David Wm. Boone as outlined above under the Florida Contingent Fee Agreement, with certain modifications to avoid any actual conflict between the Lita Sullivan Estate Administrator and the Bankruptcy Estate. The modifications are that (i) all recovery, whether technically by the Estate Administrator or the Bankruptcy Estate, is attributable to the Bankruptcy Estate, and (ii) all compensation and reimbursement for the efforts of John B. Moores, David Wm. Boone, and Boone & Stone, shall be to John B. Moores and David Wm. Boone pursuant to the terms of the Florida Contingent Fee Agreement outlined above and as approved for payment by the Bankruptcy Court after further notice and hearing.

#### **IV. RELIEF REQUESTED**

27. The Trustee requests that this Court enter an order authorizing the Trustee to employ and appoint Boone & Stone, whose Atlanta, Georgia office is located at 3166 Mathieson Drive, Atlanta, GA 30305, and whose phone number is 404-239-0305 and facsimile number is 404-239-0520, to represent the Trustee as special counsel pursuant to 11 U.S.C. §327(c) and (e) ("Special Counsel"), in matters which relate to identifying and recovering assets for the benefit of the Bankruptcy Estate, including conducting examinations and productions (including under the full scope of Bankruptcy Rule 2004) and litigation, pursuant to which fees and expenses will be as set forth above, after further notice and hearing.

28. The Verified Statement by Boone & Stone is attached hereto as **Exhibit A**.

29. To the best of the Trustee's knowledge, neither Boone & Stone nor any employee has any "connection" [within the meaning of that term under Bankruptcy Rule 2014(a)] with the Trustee, Debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the Office of the United States Trustee, other than that set forth above.

30. John B. Moores, David Wm. Boone, and Boone & Stone have not received any retainer or reimbursement for out-of-pocket expenses.

31. Notice of this Application is being given to the United States Trustee and the Lita Sullivan Estate Administrator. The Trustee submits that no other or further notice is necessary.

WHEREFORE, the Trustee prays that the Trustee be authorized to employ and appoint Boone & Stone to represent the Trustee as special counsel pursuant to 11 U.S.C. §327(c) and (e) ("Special Counsel"), in matters which relate to identifying and recovering assets for the benefit of the Bankruptcy Estate, including conducting examinations and productions (including under the full scope of Bankruptcy Rule 2004) and litigation, pursuant to which compensation and reimbursement of out-of-pocket expenses will be as set out above, after further notice and hearing, and grant the Trustee such other relief to which it is entitled.

PETTIGREW & ASSOCIATES, P.C.

Suite 1450, 100 Peachtree Street  
Atlanta, Georgia 30303  
phone: 404/577-5244  
fax: 404/577-7903

/s/ \_\_\_\_\_  
Harry W. Pettigrew  
Georgia State Bar No. 574800  
Counsel for Trustee

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	§	CHAPTER 7
	§	
JAMES VINCENT SULLIVAN,	§	CASE NO. 04-76174-PWB
	§	
Debtor	§	JUDGE PAUL W. BONAPHEL

**VERIFIED STATEMENT FOR BOONE & SULLIVAN,  
PURSUANT TO FED. R. BANKR. P. 2014(a),  
IN SUPPORT OF APPLICATION AUTHORIZING THE EMPLOYMENT AND  
APPOINTMENT OF BOONE & SULLIVAN  
AS SPECIAL COUNSEL FOR THE CHAPTER 7 TRUSTEE**

I, David Wm. Boone, pursuant to Federal Rule of Bankruptcy Procedure 2014(a) make this Verified Statement in support of the Application Authorizing the Employment and Appointment of Boone & Stone As Special Counsel for the Chapter 7 Trustee in the case styled In re James Vincent Sullivan, Case No. 04-76174 ("Bankruptcy Case"), in the United States Bankruptcy Court for the Northern District of Georgia ("Bankruptcy Court"), and show the Court as follows:

1. I am a member of Boone & Stone, a law firm with offices in Atlanta, Georgia.
2. James Vincent Sullivan, the Debtor, and Lita McClinton Sullivan ("Lita Sullivan") were husband and wife.
3. In 1987, Lita McClinton Sullivan was murdered in Atlanta, Fulton County, Georgia.
4. The Fulton County, Georgia Probate Court appointed Ann J. Herrera as the Administrator for the Estate of Lita Sullivan ("Lita Sullivan Estate Administrator").
5. John B. Moores, Esq. of West Palm Beach, Florida and David Wm. Boone, Esq. of Atlanta, Georgia represented the Lita Sullivan Estate Administrator in a wrongful death civil lawsuit against the Debtor in Florida ("Wrongful Death Lawsuit") pursuant to a Florida contingent fee agreement approved by a Florida court ("Florida Contingent Fee Agreement").
6. The Wrongful Death Lawsuit resulted in a judgment against the Debtor ("Judgment") in the principal amount of \$4,000,000.00. With statutory interest the Judgment is now in excess of \$8,000,000.00.

7. The Lita Sullivan Estate Administrator through the above attorneys has engaged in extensive efforts to recover against the Debtor on the Judgment, including other litigation. To date, there has been no recovery.

8. The Debtor was extradited from Thailand and is currently incarcerated in the Fulton County, Georgia jail, charged with the murder of Lita Sullivan.

9. On October 1, 2004 ("Petition Date"), an involuntary petition for relief under Chapter 7 of Title 11 of the United States Code, U.S.C. §§ 101 et.seq., as amended ("Bankruptcy Code") ("Petition") was filed by the Lita Sullivan Estate Administrator, as the petitioning creditor ("Petitioning Creditor"), by and through Herbert C. Broadfoot, II, of Ragsdale, Beals, Hooper & Seigler, LLP, as counsel for the Petitioning Creditor.

10. The Petition commenced the bankruptcy case styled In re James Vincent Sullivan, Case No. 04-76174 ("Bankruptcy Case") in the Northern District of Georgia, Atlanta Division ("Bankruptcy Court"), assigned to the Honorable Paul W. Bonaphel ("Bankruptcy Judge").

11. On November 3, 2004 ("Order for Relief Date"), the Bankruptcy Court entered an order for relief under Chapter 7 of the Bankruptcy Code.

12. On November 15, 2004, Harry W. Pettigrew was appointed Chapter 7 trustee in the Bankruptcy Case, and continues as such ("Trustee").

13. The Trustee is the sole representative of the bankruptcy estate ("Bankruptcy Estate").

14. The Trustee seeks to recover assets for the benefit of the Bankruptcy Estate, and to employ professionals to assist the Trustee in that effort.

15. David Wm. Boone has formed the law firm of Boone & Stone. David Wm. Boone is located in Atlanta, Georgia. John B. Moores is associated with the law firm of Boone & Stone and is located in West Palm Beach, Florida.

16. In this application, the Trustee seeks to employ Boone & Stone as special counsel for the Trustee to represent the Trustee in matters which relate to identifying and recovering assets for the benefit of the Bankruptcy Estate, including conducting examinations and productions (including under the full scope of Bankruptcy Rule 2004) and litigation.

17. The lawyers with Boone & Stone have extensive knowledge and experience in analyzing and tracking assets which may be property of the Bankruptcy Estate.

18. The lawyers with Boone & Stone have extensive knowledge and experience in seeking the recovery of assets.

19. The interests of the Lita Sullivan Estate Administrator and the Bankruptcy Estate are not adverse to each other.

20. The Florida Contingent Fee Agreement between the Lita Sullivan Estate Administrator and John B. Moores and David Wm. Boone provides for compensation of 40% of any recovery plus the reimbursement of actual reasonable and necessary out-of-pocket expenses to John B. Moores and David Wm. Boone. John B. Moores and David Wm. Boone have a sharing agreement between themselves.

21. The Trustee seeks to employ Boone & Stone as special counsel to represent the Bankruptcy Estate, with compensation and reimbursement therefore to be to John B. Moores and David Wm. Boone as outlined above under the Florida Contingent Fee Agreement, with certain modifications to avoid any actual conflict between the Lita Sullivan Estate Administrator and the Bankruptcy Estate. The modifications are that (i) all recovery, whether technically by the Estate Administrator or the Bankruptcy Estate, is attributable to the Bankruptcy Estate, and (ii) all compensation and reimbursement for the efforts of John B. Moores, David Wm. Boone, and Boone & Stone, shall be to John B. Moores and David Wm. Boone pursuant to the terms of the Florida Contingent Fee Agreement outlined above and as approved for payment by the Bankruptcy Court after further notice and hearing.

22. John B. Moores, David Wm. Boone, and Boone & Stone agree to these terms, on behalf of themselves and the Lita Sullivan Estate Administrator.

23. The Atlanta, Georgia office of Boone & Stone is located at 3166 Mathieson Drive, Atlanta, GA 30305, and has the phone number 404-239-0305 and facsimile number 404-239-0520.

24. A further description of Boone & Stone is attached hereto as **Attachment I.**

25. Lawyers in Boone & Stone, including David Wm. Boone, are licensed to practice in Georgia and the United States District Court for the Northern District of Georgia, and therefore the Bankruptcy Court.

26. To the best of the knowledge of David Wm. Boone, the interests of Boone & Stone in connection with the Petitioning Creditor, the Debtor, and the Bankruptcy Estate are set forth above.



27. To the best of the knowledge of David Wm. Boone, neither Boone & Stone nor any employee of Boone & Stone has any "connection" [within the meaning of that term under Bankruptcy Rule 2014(a)] with the Trustee, Debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the Office of the United States Trustee, except that set forth above.

28. John B. Moores, David Wm. Boone, and Boone & Stone have not received any retainer or reimbursement for out-of-pocket expenses.

I, David Wm. Boone, declare that the foregoing statements are true, are based upon my personal knowledge, and are made under penalty of perjury under the laws of the United States.

Dated: February 10, 2005.

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DAVID WM. BOONE

## **APPENDIX I**

### **Description of Boone & Stone**

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# Boone & Stone

LITIGATION PRACTICE IN ALL STATE AND FEDERAL COURTS

David William Boone

Member

Email [dwboone@mindspring.com](mailto:dwboone@mindspring.com)

**Practice Areas:** Medical Malpractice;  
Products Liability; Aviation; Complex Civil  
Torts; Commercial Litigation; Catastrophic  
Injuries.

**Admitted:** 1978, Florida; 1987, Georgia

**Law School:** Cumberland School of Law of  
Samford University, J.D., cum laude, 1978

**College:** University of Central Florida, B.A.,  
1975

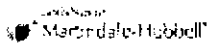
**Member:** State Bar of Georgia; The Florida  
Bar; Atlanta, Broward County, Federal  
(Atlanta and Ft. Lauderdale Chapters) and  
American Bar Associations; The National  
Transportation and Safety Administration Bar  
Association; The Association of Trial Lawyers  
of America (Life Member; Member,  
Presidents Club; Mediation Dispute  
Committee, 1991-1995; Chair, Permanent  
Endowment Committee, Vice Chair, Faculty  
Training Committee for Seminars and Trial  
Colleges, 1989-1991; Secretary, Tobacco  
Litigation Group, 1987-1993; Co-Chair,  
Convention Planning Committee, 1992-1993;  
Chair, Permanent Endowment Committee,  
1994-1995; Vice Chair, Counsel of  
Presidents, Co-Chair, Leadership  
Development Committee, 1992-1993;  
Trustee, 2000; Permanent Endowment  
Committee, 2000-2001; Domestic Violence  
Litigation Group, 1993-1994; Long Range  
Planning Committee, 1993-1994; Secretary,  
Aviation Section, 1989-1990; Public Relations  
Committee, 1986-1987; Member, President's  
Club and Leader's Forum; Georgia Trial  
Lawyers Association (Life Member; Past  
President, 1996-; President, 1995-1996;  
President Elect, 1994-1995; Treasurer, 1992-  
1994; Member, Amicus Curiae Committee,  
1989-1995; Co-Chair, Legislative Committee,  
1990-1991; Co-Chair, Speakers' Bureau,  
1989-1990; Board of Directors, 1991-1996;  
Chair, Constitutional Review Committee,  
2000-2001; Executive Committee, 1989-  
1997; Chairman, Judicial Liaison Committee  
1987-1988; Georgia Civil Justice Foundation  
(Member, Board of Directors, 1994-1997,  
President, 1993-1994); Florida Academy of  
Trial Lawyers; Texas Trial Lawyers  
Association. (Also Of Counsel: Nicolas,

Welsh, Brooks & Hayward, Louisville, Kentucky; Harrell & Johnson, Jacksonville, Florida; Mosca & Falco, Sarasota, Florida). (Also at Blakeley Office). (Also Member, Boone & Davis, Fort Lauderdale, Florida).

**Biography:** Delta Theta Phi, Member, Board of Directors, Georgia Head Injury Association, 1994-1997, Member, Experimental Aircraft Association (Member, Board of Directors PDK Chapter, 1994-1996) Member, Million Dollar Advocates Forum, (Board Certified Civil Trial Lawyer, Florida Bar Board of Legal Specialization and Education) (Board Certified in Civil Trial Advocacy by the National Board of Trial Advocacy)

**Born:** Frankfurt, Germany, September 30, 1954

ISLN: 000017431



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# Boone & Stone

LITIGATION PRACTICE IN ALL STATE AND FEDERAL COURTS

**William S. Stone**

Member

Email: [billstone@stonelaw.com](mailto:billstone@stonelaw.com)

**Practice Areas:** Products Liability  
Commercial Fraud, Consumer Fraud, Medical  
Malpractice.

**Admitted:** 1977, Georgia; 1985, Alabama

**Law School:** University of Georgia, J.D.,  
1977

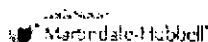
**College:** University of Georgia, B.B.A., 1975

**Member:** State Bar of Georgia (Member,  
General Practice and Trial Section; Council  
Member, District Two, 1985-1993); Alabama  
State Bar; American Bar Association  
(Member, Law Practice Management  
Section); Georgia Trial Lawyers Association  
(Member, 1982-; Past President, President  
1991-1992; President-Elect, 1990-1991;  
Executive Vice-President, 1988-1990;  
Treasurer, 1986-1989; Vice President, 1985-  
1986; Executive Committee, 1986-; Ad Hoc  
Curiae Committee, Legislative Committee,  
Chairman, 1989; Jones v. State Farm  
Committee, Chairman, 1984-1985); The  
Association of Trial Lawyers of America  
(Board of Governors, 1993-); Alabama Trial  
Lawyers Association; Attorney's Information  
Exchange Group; Trial Lawyers for Public  
Justice

**Biography:** Phi Kappa Psi, Phi Delta Phi.

**Born:** Dothan, Alabama, August 19, 1953

**ISLN:** 903379487



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# Boone & Stone

LITIGATION PRACTICE IN ALL STATE AND FEDERAL COURTS

Simone R. Siex  
Associate

Email [dwboone@mindspring.com](mailto:dwboone@mindspring.com)

**Practice Areas:** Medical and Professional Negligence; Products Liability; Civil Litigation; Catastrophic injuries.

**Admitted:** 1987, Georgia; 1988, U.S. District Court, Northern District of Georgia and U.S. Court of Appeals, Eleventh Circuit; 1989, U.S. District Court, Middle District of Georgia; Georgia Supreme Court and Georgia Court of Appeals

**Law School:** Emory University School of Law, J.D., 1987

**College:** Randolph-Macon Woman's College, B.A. with honors in Political Science, cum laude, 1984

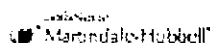
**Member:** Atlanta and American Bar Associations; State Bar of Georgia; Georgia Trial Lawyers Association (Chairperson, Constitutional Challenge Committee, 1991-1994; Member, Amicus Curiae Committee); Georgia Civil Justice Foundation (President, 1994-1996); American Judicature Society; The Association of Trial Lawyers of America (Member, President's Club).

**Biography:** Recipient, Emory Merit Scholarship; Edmonds Merit Scholarship  
Author: "Claims Against Attorneys Based on Sexual Misconduct: Sexual Misconduct as Professional Malpractice," 30 Georgia State Bar Journal 7 (Fall 1993); Law Clerk to Judges C. Cloud Morgan and Bryant Culpepper, Bibb County Superior Court, 1987-1988

**Languages:** French

**Born:** Baldeck Herts, England, November 17, 1962

**ISLN:** 903728346



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# Boone & Stone

LITIGATION PRACTICE IN ALL STATE AND FEDERAL COURTS

Antoinette Davis Johnson  
Associate

Email: [toni\\_johnson@bellsouth.net](mailto:toni_johnson@bellsouth.net)

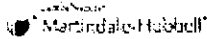
**Practice Areas:** Products Liability;  
Commercial Fraud; Consumer Fraud; Medical  
Malpractice

**Admitted:** 1978, Georgia

**Law School:** University of Georgia, J.D.,  
1978

**College:** University of North Carolina at  
Chapel Hill, B.A., English, 1974

**ISLN:** 900156566



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[PERSONAL INJURY](#)

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# Boone & Stone

LITIGATION PRACTICE IN ALL STATE AND FEDERAL COURTS

**Alan G. Paulk**  
Associate

**Practice Areas:** Criminal Law.

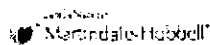
**Admitted:** 2002, Georgia

**Law School:** Emory University School of Law, J.D. , 2000

**College:** University of Georgia, B.A., 1997

**Born:** 1975

**ISLN:** 916673770



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# Boone & Stone

LITIGATION PRACTICE IN ALL STATE AND FEDERAL COURTS

## Contact

Office Location(s)

Atlanta, Georgia

3166 Mathieson Drive  
Atlanta, Georgia 30305  
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0305

Fax: 404-239-0520

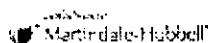


[dwboone@mindspring.com](mailto:dwboone@mindspring.com)

Blakely, Georgia

589 College Street P.O. Drawer 70  
Blakely, Georgia 39823  
Telephone: 229-723-3045  
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